

**Testimony of U.S. Representative Edward J. Markey (D-MA)
Before the Committee on Homeland Security & Federal Affairs
Massachusetts State House, Room 222
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Mr. Chairman, and Members of the Committee, I appreciate this opportunity to discuss the safety and security of the transportation and storage of liquefied natural gas (LNG) at the Distrigas facility in Everett, Massachusetts.

Since 1976 I have represented the Seventh Congressional District, in which the Everett Distrigas LNG importation terminal is located. As a Member of the U.S. House Energy and Commerce Committee and, more recently, the U.S. House Select Committee on Homeland Security, I have been active in promoting measures aimed at improving the safety and security at LNG facilities. In my testimony, I would like to highlight what I see as some of the key issues facing federal, state, and local policymakers in this area.

Background

As you may know, LNG is an important component of the energy supply of our region and it is critical to everyone in the Boston area that this commodity be supplied in a manner that ensures the safety of the communities surrounding the facility. Our nation has long recognized the need to assure that the transportation and storage of LNG is safe, given the consequences of an accident involving this gas. While it is important to recognize that this gas can quickly and harmlessly vaporize when exposed to air, thus reducing its value as a terrorist target, it is highly flammable under some circumstances, and its ignition could, under certain circumstances, result in a very large fire that could cause significant loss of life and property.

Given the importance of maintaining and expanding operations at these facilities if America is to meet its current and future energy needs, it is essential for appropriate protections to be put into place at the Distrigas and other LNG facilities around the nation to secure these facilities from the potential for terrorist attack.

The importance of undertaking such security precautions is only underscored when you consider the likelihood that there will be a dramatic increase in the number of LNG importation terminals in the U.S. over the next decade. Rising natural gas prices and increased efficiencies in converting natural gas into LNG, transporting it, and then reconverting it back into natural gas have now rendered LNG more economically viable. As a result, there has been increased industry interest in building new LNG terminals around the country.

Just three years ago, there were only two operating LNG importation terminals in the country – Distrigas in Everett and the Trunkline facility in Lake Charles, Louisiana. This

situation changed when the long-mothballed Cove Point Maryland and Elba Island Georgia terminals were reopened. Today, according to the Federal Energy Regulatory Commission (FERC), there are another four new LNG terminals that have been approved by FERC for operation. In addition, there are an additional 9 proposed LNG terminals currently pending before FERC, including one to be located at Fall River, Massachusetts, as well as 2 offshore LNG terminals pending before the Coast Guard. These 11 proposed facilities, which have actually begun seeking regulatory approvals, only represent the tip of the iceberg. FERC reports that there are also an additional 22 planned LNG terminals currently under consideration in North America (including one to be located at Somerset, Massachusetts). While not all of these facilities are likely to be approved or built, it is quite likely that some of them will become operational over the next 10-15 years.

The Distrigas LNG Facility

The Distrigas terminal in Everett has been in continuous operation since 1971. The facility is estimated to provide, on average, between 15-20 percent of our region's natural gas supply. This facility is unlike any other currently operating LNG importation terminal in the nation. It is located in the middle of the City of Everett, a city of approximately 38,000 people that has a population density of 11,241 people per square mile. The facility is a mile and a half from my hometown of Malden (a city of 56,000 people), it is two and a half miles from the City of Medford (also population 56,000) where my District Office is located. The facility also is right across the Mystic River from downtown Boston, which has a population of roughly 590,000 people.

By comparison, the population density of Lake Charles (home of the CMS Trunkline Facility) is 1786 people per square mile. The Elba Island, Georgia LNG facility is located near Savannah, Georgia (which has a population of 1759.5 people per square mile). The Cove Point facility is located in a rural area that is even less densely populated.

LNG tankers that dock at the Distrigas facility must enter the Boston Harbor and sail through a narrow ship channel that passes right by Logan airport, under the Tobin Bridge, and right by the central financial and commercial district of the City of Boston. For this reason, when LNG tankers approach Boston, the Coast Guard has established special procedures to help protect the public health and safety, including the possibility of terrorist attacks. The Coast Guard works with the City of Boston, and police and fire departments of Everett, Malden and Medford to establish procedures for protecting the tanker ships and preparing for any emergency response.

However, after the LNG tankers have docked at the facility, the Coast Guard's job is done. Security is left to the Everett Police Department and the private security guards hired by Distrigas. Of course, the Everett Police Department has all of the responsibilities of an urban police force, and cannot devote the resources to maintaining a large police presence at this facility at all times. For this reason, we must rely on the LNG plant operator, Distrigas, to put in place and maintain adequate security systems, and on the federal government to help reimburse Everett for the additional security burden of helping to protect this facility.

While I was quite concerned that Distrigas was not doing enough to properly secure this facility in the immediate aftermath of the September 11th attacks, I believe that the company has adopted a much more serious attitude towards meeting its security responsibilities in the last two

years. However, I believe that more needs to be done to assure that this facility is properly safeguarded, as I will explain later in my testimony.

Post September 11th Developments at Distrigas

Shortly after the September 11th terrorist attacks, I began pressing the Bush Administration to look seriously at the issue of LNG security and to take action to work with the facility operator, and state and local officials and emergency responders, to ensure the security of the Distrigas facility as well as the security of LNG tanker ships entering the Port of Boston to dock at the facility.

On September 26, 2001, I wrote to Transportation Secretary Norman Mineta to express my concerns about potential terrorist threats to the facility and to pose a series of questions regarding security measures at this facility. The Secretary responded to my inquiry on October 26, 2001. Because the Secretary's response raised concerns about the nature and adequacy of coordination of efforts between the Coast Guard, the Energy Department, the Transportation Department, and State and local officials, I wrote then-Homeland Security Director Tom Ridge on October 30, 2001 to ask him to take action to sort out the various jurisdictional issues and assure this facility was properly safeguarded against terrorist threats. When then-Director Ridge failed to respond to this letter, I sent him a hand-written personal note reiterating my request for action. And when he failed to respond to that letter, I confronted him about the matter at a classified briefing of the House Energy and Commerce Committee, which was held on May 22, 2002. In response to my questioning, the Governor finally provided a response to my questions, suggesting that the Administration was seeking to better coordinate the federal response to potential attacks on LNG facilities.

In addition to pursuing this matter with Governor Ridge, I have also continued to press the Department of Transportation and other agencies for action in this matter. During a March 19, 2002 hearing before the House Energy and Commerce Committee's Subcommittee on Energy and Air Quality, I asked the head of the Department's Office of Pipeline Safety a series of questions about security at the Distrigas facility. Because the witnesses were unable to satisfactorily respond to several of my questions, I asked the Department to submit responses for the Record, which it subsequently provided.

As you can see from this chronology, the early performance of the Bush Administration on this matter did not inspire great confidence that the Administration takes the matter of LNG security seriously or was willing to take the steps necessary to assure that Distrigas was properly protected. For this reason, in 2002 I drafted an amendment that I attached to the House version of pipeline safety legislation. My amendment would have mandated that the Transportation Department initiate a rulemaking to establish stronger security measures at LNG facilities located in or near urban areas, including testing of the security forces through realistic force-on-force exercises. In light of the willingness of the facility operator to commit to a series of specific security improvements at the Distrigas facility, I ultimately agreed to have my amendment withdrawn from the final version of the pipeline safety bill. I am pleased that it agreed to implement a series of specific physical and other security measures that I requested they undertake. While I have agreed with the company not to discuss the details of these measures in a public forum, one important aspect was the agreement by Distrigas to submit to routine, third party monitoring of the nature and adequacy of its security. The company has worked out an arrangement with the Department of Homeland Security to provide for this monitoring.

Federal Responsibilities

I have continued concerns about the nature and adequacy of federal leadership on the issue of LNG security. As I see it, there currently are two critical issues that need to be addressed at the federal level.

First, we need to have a better assessment of the consequences of a terrorist attack against an LNG tanker or LNG terminal. Such an assessment is needed to better inform siting decisions with respect to any new LNG terminals in Massachusetts or elsewhere around the nation. It is also needed to better inform emergency planning and response activities with respect to existing LNG facilities.

Second, we need help from both the federal government and the facility operator to defray the costs that local governments like the City of Everett incur in securing LNG or other critical infrastructure facilities from a terrorist attack. While Distrigas does provide some funding for this purpose today, and has taken other actions to facilitate the efforts of local law enforcement to secure the facility, we need to assess on an ongoing basis whether this funding is sufficient to meet future security needs. At the same time, we need more help at the federal level.

Let me briefly discuss some recent developments affecting both issues.

Consequences of an Attack

On the issue of the consequences of an attack, in recent months press reports have raised concerns about nature and adequacy of some of the safety studies that were performed for the Distrigas facility shortly after the September 11th attacks. On November 7, 2003 I wrote FERC, the Energy Department, and the Transportation Department to ask about how a DOE-funded study of safety issues at the Distrigas facility by the private consulting firm Quest was being used by the federal government, in light of these published reports calling into question the methodology of that study. FERC and the DOE have responded to this inquiry, but I am still awaiting a response from the Transportation Department. Interestingly, both DOE and FERC seem to have tacitly admitted the shortcomings of the Quest study in deciding to fund additional LNG safety studies. The DOE study is being performed by the Sandia Laboratory. The FERC study is being done by ABS Consulting. The FERC-funded study is due by the end of March. The DOE-funded Sandia study should be available later in the year.

Funding

Let me now turn to the second issue – that of funding. On February 3, 2004, I organized a letter to Homeland Security Secretary Ridge, which was signed by Senator Kerry, as well as Representatives Frank, Tierney, Capuano, Lynch, and Delahunt. Our letter urged the Department to maintain a “High”, or Orange, Threat Level in Boston Harbor and Everett whenever Liquefied Natural Gas (LNG) tankers enter the Port of Boston to be offloaded at the terminal in Everett. Because of the unique and significant security challenges associated with the Everett LNG facility, the letter also calls on the Department to retain the Orange designation for the LNG terminal, even when the national threat level is downgraded to indicate a lower risk of terrorist attack. Our letter also urged Secretary Ridge to maintain federal reimbursement of overtime and other supplemental funds that Everett and other communities in the vicinity of the

LNG facility must spend to secure the LNG facility from terrorism during the arrival, docking and departure of the LNG tankers.

On February 9, 2004, the Department of Homeland Security told the Executive Office of Public Safety in Massachusetts the following email:

“I am responding to your request about possible including of the LNG operations and facilities in Everett, Massachusetts, and the ongoing LNG tanker ship operations in Boston Harbor as critical assets warranting continued enhanced protective measures. At this time, we cannot make an exception to our list of critical infrastructures and these facilities would not be eligible for overtime funding similar to the funding covering approved sites in your state.”

As you can imagine, I was not pleased to learn of this decision to deny overtime funding for LNG security activities. During a February 12, 2004 hearing of the Homeland Security Committee, I asked Secretary Ridge a question about Everett's eligibility for reimbursement for LNG expenses. The Secretary indicated that communities like Everett, which have important infrastructure and are located near major cities, would be eligible to get some of federal Urban Area Security Initiative money. However, the Secretary did not respond to my direct question about the Department's decision to deny Everett and other communities overtime funding. I am therefore following up on this matter to determine whether the Department intends to reverse its decision not to put LNG operations and facilities in Everett on their list of critical assets warranting continued enhanced protective measures. I would urge the Committee to join in pressing for a favorable decision from the Department on this question.

Other LNG Facilities in Massachusetts

While I am not as familiar with the particular facts and circumstances surrounding the two new LNG importation terminals that are being proposed for Massachusetts – as they are to be located outside of the Seventh District, I would like to point out to the Committee that these facilities are subject to siting standards which were not in place when the Everett LNG facility was built. Under a provision of a 1979 law that I authored, the Secretary of Transportation is supposed to ensure that the siting of all new LNG terminals is subject to standards which consider: 1) the kind and use of the facility; 2) existing and projected population and demographic characteristics of the location; 3) existing and proposed land use near the location; 4) natural physical aspects of the location; 5) medical, law enforcement, and fire prevention capabilities near the location that can cope with a risk caused by the facility; and 6) the need to encourage remote siting (see 49 U.S.C. 60103).

I do have some concerns about whether or not DOT's regulations are adequate and whether they comply fully with the requirements of this provision of the law. I am continuing to review this matter, however, and will be evaluating both the ABS and Sandia studies to assess whether the exclusion zones and other provisions provided for in existing regulations are consistent with Congressional intent, including the preference for remote siting and consideration for existing and projected population and land use near the locations of new LNG terminals.

I would also note that the DOT standards are not at all transparent to the general public. If a citizen were to read the DOT regulations at 40 CFR Part 193, for example, they would find that the regulations incorporate by reference a National Fire Protection Association (NFPA) Standard 59A. If that same citizen were to then go to the NFPA web site to read Standard 59A,

they would find that they cannot obtain access to this document unless they paid the NFPA \$28.75. I hardly think that is fair to someone in Fall River or Somerset who might be trying to determine what the federal standards are, and whether a proposed facility meets these standards. If DOT is going to incorporate a private sector standard into federal regulation, the agency should make these standards accessible to the public.

Conclusion

Since the September 11th terrorist attacks, Everett and other communities surrounding the Distrigas LNG facility have invested substantial amounts of money and time to ensure that the LNG facility receives the highest levels of protection possible. These comprehensive security measures are costly, and the federal government should do its part to reimburse local communities that are helping to cover the cost of securing this critically important facility.

Located in a thickly populated urban area, the LNG facility in Everett is unlike any other LNG terminal in the United States. Because of its unique security needs, the Everett LNG terminal warrants the special attention of the federal government, the Commonwealth of Massachusetts, and local officials. I believe that security forces at this facility need to be kept on high alert during the regular LNG shipments that are essential for meeting the energy needs of the entire New England region. Ongoing security expenditures by the City of Everett and the other local communities surrounding the facility already are straining tight budgets, particularly during the ongoing economic downturn. Local police and security officers work hard to protect the LNG terminal while tankers arrive, offload and depart. This security comes with a high cost, and the federal government should provide the reimbursement that is required.

Thank you, Mr. Chairman for your invitation to submit this testimony. I look forward to working with you and other Members of the Committee on this and other important homeland security matters.